

Notice of Allowability

Application No.

09/823,775

Applicant(s)

KRALL ET AL.

Examiner

JOHN D PAK

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's reply of 5/10/2004 (5/7/2004 certificate of mailing).
2. ☒ The allowed claim(s) is/are 1-5 [no renumbering necessary].
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

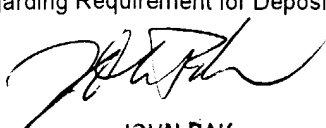
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 5/6/04 & 5/10/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☒ Other See Continuation Sheet.


JOHN PAK
PRIMARY EXAMINER
GROUP 1600

Continuation of Attachment(s) 9. Other: It appears that applicant has filed identical remarks, amendments and declarations on two separate dates: 5/6/04 and 5/10/04 (PTO Mailroom dates). Since the last amendment in a reissue application must have the corresponding substitute declaration, it is the 5/10/04 amendment and declaration which are noted of record.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Haile on 9/9/2004.

Claim 1. (Four times amended) A composition for creating therapeutic vascular occlusions in an animal comprising a mixture of:

(a) Part 1 comprised of 2-hexyl cyanoacrylate, hydroquinone, p-methoxyphenol and phosphoric acid; and

(b) Part 2 comprising gold metal powder, [ethyl myristate and a sterilized] a large chain fatty acid ester in liquid form and a stabilized polymer of 2-hexylcyanoacrylate [in weak aqueous bicarbonate solution].

Claim 2. (Original) The composition of claim 1 wherein Part 1 comprises about 100 PPM hydroquinone, 100 PPM p-methoxyphenol, 250 PPM phosphoric acid and the remainder 2-hexyl cyanoacrylate.

Claim 3. (Three times amended) The composition of claim 2 wherein Part 2 comprises about 65 percent by weight gold, about 30 percent by weight [ethyl myristate] a large chain fatty acid ester in liquid form and the remainder said [sterilized] stabilized polymer of 2-hexylcyanoacrylate [in weak aqueous bicarbonate solution].

Claim 4. (Original) The composition of claim 1 wherein Part 2 includes sulfur dioxide as a stabilizer.

Claim 5. (Four times amended) A method for creating therapeutic vascular occlusions in an animal needing therapeutic vascular occlusion comprising the steps of:

(a) Mixing together Part 1 comprised of 2-hexyl cyanoacrylate, hydroquinone, p-methoxyphenol and phosphoric acid with Part 2 comprising gold metal powder, [ethyl myristate and a sterilized] a large chain fatty acid ester in liquid form and a stabilized polymer of 2-hexylcyanoacrylate [in weak aqueous bicarbonate solution]; and

(b) [injecting] administering the mixture into a vascular site needing occlusion [with the gold metal powder suspended in the mixture].

Claims 6-22 (Canceled).

It is noted for the record that most of the amendments here are identical in substance to the amendments submitted by applicant on 5/10/2004. Except for changing "ethyl myristate" to --- a large chain fatty acid ester in liquid form --- in claim 3, all other changes are for complying with the formal requirements pursuant to 37 CFR 1.173. As for the aforementioned change to claim 3, it is noted that this subject matter was already present in applicant's claim 1 of 5/10/2004.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to JOHN PAK whose telephone number is **(571)272-0620**. The Examiner can normally be reached on Monday to Friday from 8 AM to 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's SPE, Gary Kunz, can be reached on **(571)272-0887**.

The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-1600.

A handwritten signature in black ink, appearing to read "John Pak", is positioned above the printed name and title.

JOHN PAK
PRIMARY EXAMINER
GROUP 1600